

# District 12

Rules for Appointment of Counsel in Criminal Cases - Appendix 1 (Court-Appointed Counsel Request Form)

## Rules for Appointment of Counsel in Criminal Cases

I. PURPOSE. This rule is to establish a process for the appointment of private attorneys to represent indigent defendants as provided in Neb. Rev. Stat. §§ 29-3901 to 29-3908.

II. APPLICABILITY. This rule shall not apply to criminal proceedings in which the court appoints the Public Defender, the Nebraska Commission on Public Advocacy, or any other attorney under contract with the county to provide such services.

### III. GENERAL

A. Appointments of private attorneys shall be made on an impartial and equitable basis:

B. The appointments shall be distributed among the attorneys on a rotation system:

C. Complex cases shall be assigned to attorneys with sufficient levels of experience and competence to provide adequate representation:

D. Less experienced attorneys should be assigned cases which are within their capabilities, but should be given the opportunity to expand their experience under supervision: and

E. Cases shall be assigned to attorneys of sufficient experience, skill, and competence to render effective assistance of counsel to defendants.

### IV. COURT-APPOINTED ATTORNEY LIST

A. Each County Court shall maintain a court-appointed attorney list from which attorneys shall be appointed to represent indigent defendants in misdemeanor and felony cases (which shall consist of two categories; misdemeanors and felonies).

B. Attorneys must contact the County Court in each county and request the Clerk Magistrate to place them on, or remove them from, the court-appointed list. Attorneys must set forth the experience that qualifies them to handle the level of case referenced in their request.

C. The County Court shall maintain a misdemeanor list and a separate felony appointment list (Appendix 1, attached hereto, shall be used when requesting to be placed or removed from the court-appointed attorney list).

### V. METHOD OF SELECTION FROM COURT-APPOINTED LIST

A. The Court will generally attempt to appoint attorneys from the court-appointed attorney list on a rotational basis, subject to the court's sole discretion to make exceptions due to:

1. the nature and complexity of the case;
2. an attorney's experience;
3. the nature and disposition of the defendant;
4. a language consideration;
5. a conflict of interest;
6. the availability of the attorney, taking into consideration an immediate need to address issues involved in the case;
7. geographical considerations--in all cases, the court may appoint attorneys who are in closest geographical proximity to the court before considering the appointment of other attorneys in order to avoid travel time and mileage expenses, for the convenience of defendants in consulting with their attorney, and for the convenience of the court in scheduling cases for hearing; and
8. other relevant factors.

B. Attorneys may contact the appropriate County Court and request the current court-appointed counsel list.

#### VI. REMOVAL AND REINSTATEMENT FROM APPOINTMENT LIST

A. Judges will monitor attorney performance on a continuing basis to ensure the competency of attorneys on the list. An attorney may be removed from the appointment list by a majority vote of county and district court judges within the district.

B. If an attorney is under consideration for removal from the list, written notification will be given indicating the concerns with the attorney's performance giving rise to consideration for removal, and be given the opportunity to respond in writing or in person before a final decision is made.

C. An attorney who has been removed from the list for any reason may be considered for reinstatement by a majority vote of the judges, after the deficiencies contained in the notice have been resolved.

*Rule approve December 17, 2014.*

## **Rules for Expanded Media Coverage in the Nebraska County Court of Judge Randin Roland, Twelfth Judicial District**

In the discretion of the judge presiding, courtroom proceedings may be broadcast, both by audio and video, and may be televised, recorded, or photographed (hereafter collectively referred to as “broadcast”) under the following conditions:

(1) On an interim basis, these rules regarding expanded media coverage apply only to proceedings over which Judge Roland is presiding,[i] taking place within the 12th Judicial District of the State of Nebraska.

(2) Only members of the media as defined below shall be permitted to broadcast, record, televise, photograph, or otherwise broadcast those proceedings set out below.

Media is defined as a representative of a radio or television station licensed by the Federal Communications Commission or a reporter/photographer employed by a recognized news outlet.

(3) The trial judge overseeing the proceeding sought to be broadcast, recorded, or photographed retains sole and complete discretion to terminate the broadcast, recording, or photography (without explanation or warning) at any time during such proceeding.

(4) Cameras and sound equipment of a quality and type approved by the judge presiding in the case will be fixed in place in the courtroom with field of view of the camera and field of range of microphones being approved by the judge presiding over the proceedings. Other than the cameras identified herein, no other camera will be permitted in the courtroom, including a still camera, cell phone camera, or any other digital recording device equipped to take photographs or video recordings. The images produced by the camera in the courtroom should be of such a nature that still images may be retrieved.

(5) The audio broadcast shall include only the statements made in open court and shall not include communications between counsel, between counsel and their clients, or bench conferences between counsel and the court.

(6) Under no circumstances shall images of, or statements from, jurors be broadcast, recorded, televised, photographed, or otherwise broadcast.

(7) Jury selection will not be broadcast.

(8) The following cases will not be broadcast: matters involving grand juries, juveniles (persons under 19 years old),[ii] child custody, parenting time, sexual abuse, sexual assault, domestic abuse, child abuse, protection orders, and any other cases that the trial judge may determine.

(9) The testimony of certain witnesses may not be broadcast. Those witnesses are as follows: persons under age 19,[iii] a person who claims to be a victim of sexual abuse or sexual assault who will be called upon to testify about the abuse or assault, or a confidential informant whose testimony is about the matter upon which the person informed. Any witness may make a request to prevent that person’s testimony from being broadcast by making application to the judge presiding over the proceeding indicating the reason the witness does not want his or her testimony broadcast.

(10) Upon application of any party or counsel, the court may, in its sole and complete discretion (and without further explanation), determine to not broadcast courtroom

proceedings or terminate the broadcast of courtroom proceedings.

(11) Upon application at least 14 days in advance of a scheduled hearing that may be broadcast, the court may, in its sole and complete discretion (and without further explanation), permit other types of broadcast or recording equipment in the courtroom.

The images and sound produced from the courtroom will be available to any broadcast media licensed by the Federal Communications Commission and any print media published in the State of Nebraska on a pool basis.

The overriding principle shall be the guarantee of a fair trial to the litigants. Criteria may change from time to time based on factors which the court has not yet considered and the circumstances of individual cases.

[i] Typically, these would be proceedings in Cheyenne, Deuel, Garden, and Kimball Counties within the 12th Judicial District of the State of Nebraska.

[ii] This includes juvenile court proceedings, adoptions, guardianship/conservatorship proceedings in which a juvenile is the ward or protected party, and portions of proceedings in which a juvenile is a witness or victim and has been called to the stand to testify.

[iii] If the witness or victim is under the age of 19 years old, but has been emancipated by a prior order of a court of competent jurisdiction in this, or any other State, then such witness or victim will not be considered a juvenile for purposes of this exclusionary rule. Such a witness or victim may qualify for “exclusion” under this rule for another stated reason (i.e., emancipated minor as victim of sexual abuse or assault).

*Approved August 28, 2013.*

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